



DEPARTMENT OF COMMERCE

**International Trade Administration**

[A 533-810]

**Stainless Steel Bar from India: Notice of Court Decision Not in Harmony with the Results of the Antidumping Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On June 2, 2021, the U.S. Court of International Trade (the CIT) issued its final judgment in *Carpenter Technology Corporation, et al v. United States*, Court no. 19-00200, sustaining the Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the antidumping duty (AD) order on stainless steel bar (SSB) from India covering the period February 1, 2017 through January 31, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margins assigned to Venus Wire Industries Pvt. Ltd. and its affiliates Precision Metals, Sieves Manufacturers (India) Pvt. Ltd., and Hindustan Inox Ltd. (collectively, the Venus Group), Jindal Stainless (Hisar) Limited (Jindal), and Laxcon Steels Limited (Laxcon).

**DATES:** Applicable June 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3477.

## SUPPLEMENTARY INFORMATION:

### Background

On October 21, 2019, Commerce published its *Final Results* in the 2017-2018 AD administrative review of SSB from India.<sup>1</sup> In the *Final Results*, we determined that the Venus Group is not the manufacturer of the SSB that it purchased from unaffiliated suppliers and processed in India prior to exportation to the United States.<sup>2</sup> Because most of the unaffiliated suppliers did not provide their costs, we applied partial adverse facts available (AFA) with respect to the Venus Group.<sup>3</sup>

The petitioners<sup>4</sup> appealed Commerce's *Final Results*.<sup>5</sup> On August 4, 2020, Commerce requested a voluntary remand to reconsider or further explain the application of its partial AFA methodology to address missing cost of production data from the Venus Group's unaffiliated suppliers, the change in the partial AFA methodology between the *Preliminary Results*<sup>6</sup> and the *Final Results*, and, if appropriate, to reconsider the appropriate AD rates assigned to Jindal and Laxcon.<sup>7</sup>

On November 4, 2020, the CIT granted Commerce's motion for a voluntary remand finding that there was a compelling justification for the remand request, that the need to accurately calculate margins was not outweighed by the interest in finality, and that the scope of

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<sup>1</sup> See *Stainless Steel Bar from India: Final Results of Administrative Review of the Antidumping Duty Order; 2017-2018*, 84 FR 56179 (October 21, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *Final Results* IDM at Comment 1.

<sup>3</sup> *Id.*

<sup>4</sup> The petitioners are: Carpenter Technology Corporation; Crucible Industries LLC; Electralloy, a Division of G.O. Carlson, Inc.; North American Stainless; Universal Stainless Alloy Product, Inc.; and Valbruna Slater Stainless, Inc.

<sup>5</sup> See Plaintiff's Rule 56.2 Motion for Judgment upon the Agency Record, in *Carpenter Technology Corporation, et al. v. United States*, Court No. 19-00200 (filed May 5, 2020).

<sup>6</sup> See *Stainless Steel Bar from India: Preliminary Results of the Antidumping Duty Administrative Review; 2017-2018*, 84 FR 15582 (April 16, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>7</sup> See Government's Response to Plaintiffs' Motion for Judgment upon the Agency Record, in *Carpenter Technology Corporation, et al. v. United States*, Court No. 19-00200 (filed August 4, 2020).

the requested remand was appropriate.<sup>8</sup> Specifically, the CIT remanded the *Final Results* to Commerce to further explain or reconsider its partial AFA methodology in the *Final Results*.<sup>9</sup>

In its Remand Redetermination, issued in January 2021,<sup>10</sup> Commerce further explained its revised partial AFA methodology, and made certain corrections in the Venus Group's margin program. Specifically, Commerce included all of the Venus Group's U.S. sales in its margin calculation; matched sales and costs by manufacturer; and made AFA adjustments not only to cost of production, but also other components of cost, including variable cost of manufacture and fixed and variable overhead.<sup>11</sup> Accordingly, Commerce made changes to the margin calculations for the Venus Group.<sup>12</sup> Commerce also made changes to the rates assigned to Jindal and Laxcon.<sup>13</sup> The CIT sustained Commerce's Remand Redetermination and also denied a motion to intervene that was filed by Laxcon.<sup>14</sup>

#### Timken Notice

In its decision in *Timken*,<sup>15</sup> as clarified by *Diamond Sawblades*,<sup>16</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's June 2, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

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<sup>8</sup> See *Carpenter Technology Corporation, et al v. United States*, 477 F. Supp. 3d 1356 (CIT 2020).

<sup>9</sup> *Id.*

<sup>10</sup> See Results of Redetermination Pursuant to Court Remand, *Carpenter Technology Corporation, et al v. United States*, Court No. 19-00200, Slip Op. 20-158, dated January 27, 2021 (Remand Redetermination).

<sup>11</sup> *Id.* at 6 through 11.

<sup>12</sup> *Id.*

<sup>13</sup> Jindal's total AFA rate was based on one of the Venus Group's highest transaction-specific margins. Because Commerce made changes to the computer programs for the Venus Group, this resulted in a change to the highest transaction-specific rate calculated for the Venus Group, which was assigned as the revised total AFA rate for Jindal. Laxcon, as a non-selected respondent, received the Venus Group's revised rate on remand. See Remand Redetermination at 11-13.

<sup>14</sup> See *Carpenter Technology Corporation, et al v. United States*, Court No. 19-00200, Slip Op. 21-68 (June 2, 2021).

<sup>15</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>16</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

### Amended Final Results

Because there is now a final court judgment, Commerce is amending the *Final Results* with respect to Venus Group, Jindal, and Laxcon as follows:<sup>17</sup>

<b>Producer/Exporter</b>	<b>Weighted-Average Dumping Margin (Percent)</b>
Venus Wire Industries Pvt. Ltd. and its affiliates Precision Metals, Sieves Manufacturers (India) Pvt. Ltd., and Hindustan Inox Ltd.	24.60
Jindal Stainless (Hisar) Limited	92.10
Laxcon Steels Limited	24.60

### Cash Deposit Rates

Because the Venus Group has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for Venus Group. For Jindal and Laxcon, which do not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to CBP.

### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by the CIT order from liquidating entries that: were produced and/or exported by the Venus Group, Jindal, or Laxcon, and were entered, or withdrawn from warehouse, for consumption during the period February 1, 2017, through January 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by the Venus Group, Jindal, or Laxcon in accordance with 19 CFR 351.212(b). We will instruct CBP to apply the *ad*

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<sup>17</sup> See Final Remand Redetermination at 11-12.

*valorem* assessment rates listed above to all entries of subject merchandise during the period of review which were produced and/or exported by Jindal and Laxcon. For the Venus Group, we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>18</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For entries of subject merchandise during the period of review produced by the Venus Group for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), and 777(i)(1) of the Act.

Dated: June 7, 2021

**Christian Marsh,**

*Acting Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>18</sup> See 19 CFR 351.106(c)(2).